

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIMOTHY R. CARIGON, #254039

Petitioner,

Civil No: 00-75567  
Honorable Arthur J. Tarnow  
Magistrate Judge Steven D. Pepe

v.

MARY BERGHUIS,

Respondent.

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**OPINION & ORDER RE: CERTIFICATE OF APPEALABILITY**

On August 8, 2005, the Court filed an Opinion and Order and entered a Judgment Denying Petition for Writ of Habeas Corpus. Petitioner subsequently filed a Notice of Appeal on September 6, 2005. Under 28 U.S.C. § 2253, an appeal may not be taken to the court of appeals from the final order in a § 2254 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B); 28 U.S.C. §2253(c); *Fed. R. App. P. 22(b)*. However, pursuant to this Court's "Order Denying Petitioner's Motion for Rehearing & Motion to Stay Proceedings & Judgment," Petitioner's Notice of Appeal was nullified when he filed post-judgment motions after the submission of his Notice of Appeal with the Sixth Circuit.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Notice of Appeal [Docket No: 38-1]  
as a request for a certificate of appealability is **DENIED** as moot.

s/Arthur J. Tarnow

Arthur J. Tarnow

United States District Judge

Dated: June 2, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 2, 2006, by electronic and/or ordinary mail.

s/Catherine A. Pickles

Judicial Secretary